

REMARKS

Claims 1-16, 18-29, 31-32, 34 and 36-40 are pending in the present application. In the above amendments, claims 1, 9 and 14 have been amended, and claims 37-40 have been added.

Applicants respectfully respond to this Office Action.

Claim Rejections – 35 USC § 103(a)

Claims 1-15, 19-20, 23-29, 31-32, 34 and 36 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,243,468 to Pearce et al., in view of U.S. Patent No. 6,931,545 to Ta et al., and further in view of Gralla, in How the Internet Works. Claims 16, 18 and 21-22 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Pearce patent in view of Ta patent.

The rejection of claim 1 as allegedly unpatentable over the Pearce patent in view of the Ta patent, and further in view of the Gralla publication, is respectfully traversed. Claim 1, as amended, recites “authenticating a certificate, included in a code image, with a first public key securely stored in the hardware, the code image further including the software”. Applicants again repeat the assertion that the Pearce patent, the Ta patent, and the Gralla publication fail to disclose a code image including a certificate and including the software being validated for the hardware. In the current Office Action, the Examiner fails to make any assertion that the cited references disclose a code image including a certificate and including the software being validated for the hardware. All words in a claim must be considered in judging the patentability of that claim against the prior art. See, MPEP 2143.03.

Further, claim 1 recites that the first public key is securely stored in the hardware. Applicants assert that one skilled of the art would not be motivated to securely store a public key in hardware, assent the teachings of the applicants’ disclosure.

Claim 1 further recites, “obtaining a signature, from the certificate, generated for the software, a first identifier for the software, and a second identifier for the hardware, wherein the signature is generated using cryptography and is used to validate an association of the software with the hardware”. In the Office Action, “the examiner points out that if Pearce receives the signature over the internet using the certificates as outlined in Gralla, as would be obvious to one of ordinary skill in the art, then it would be from the certificate.” See, page 4 (Emphasis added).

Applicants asserts that the Examiner's finding is speculative, and does not comprise a factual inquiry as required for a finding of obviousness. See, Graham v. John Deere Co., 383 U.S. 1, 36 (1966). Further, in analyzing the issue of obviousness, it is necessary to guard against slipping into the use of hindsight, and to resist the temptation to read into the prior art the teachings of the invention at issue. Id.

Accordingly, the rejection of claim 1 as allegedly unpatentable over the Pearce patent in view of the Ta patent, and further in view of the Gralla publication, should be withdrawn.

The amendments to claim 1 are supported by the specification at pages 5-6, paragraph [1029], and at page 11, paragraph [1054], and by Figure 2.

It is respectfully submitted that dependent claims 2-8 are at least allowable for the reasons given above in relation to independent claim 1.

Claims 9 and 14 are apparatus claims defined by language similar to that of claim 1. For reasons similar to those discussed above with respect to claim 1, the rejections of claims 9 and 14, as allegedly unpatentable over the Pearce patent in view of the Ta patent, and further in view of the Gralla publication, should be withdrawn.

It is respectfully submitted that dependent claims 10-13 and 15 are at least allowable for the reasons given above in relation to independent claims 1, 9 and 14.

The rejection of claim 16 as allegedly unpatentable over the Pearce patent in view of the Ta patent, is respectfully traversed. Claim 16 recites "obtaining a first identifier for the software, wherein the first identifier identifies a software release, and all instances of the software release have the same first identifier; obtaining a second identifier for the hardware, wherein the second identifier identifies a hardware platform, and all instances of the hardware platform have the same second identifier; and generating a first signature for the software, the first identifier, and the second identifier using cryptography, wherein the first signature is used to validate an association of the software with the hardware". (Emphasis added). The Pearce patent and the Ta patent fail to disclose generating a first signature for the software, the first identifier and second identifier, where all instances of the software release have the same first identifier, and all instances of the hardware platform have the same second identifier. Instead, the Pearce patent discloses a software product ID 102 that "consists of a 5-bit RPC (registered product code) value for the software product, a 3-bit site value indicating a place of manufacture, and a 7-bit

serialized number that is incremented with each product.” See, column 5, lines 52-56 (emphasis added). The entire 15-bit software product ID is sent over the network to a registration server. See, column 6, lines 23-26. Therefore, applicants assert that the the Pearce patent fails to disclose that all instances of the software release have the same first identifier that is used in the cryptographic generation of a signature. Further, the Pearce patent discloses a generally unique 5-bit hardware ID which can be derived from a unique 128-bit network card address. Applicants assert that the purposes of the Pearce patent would be rendered meaningless if all instances of the hardware platform have the same second identifier, as recited in claim 16. Further, the Ta patent fails to remedy the disclosure deficiency of the Pearce patent. Accordingly, the rejection of claim 16 as allegedly unpatentable over the Pearce patent in view of the Ta patent, should be withdrawn.

It is respectfully submitted that dependent claims 18-22 are at least allowable for the reasons given above in relation to independent claim 16.

Claims 27, 29, 32 and 34 are apparatus and method claims defined by language similar to that of claim 16. For reasons similar to those discussed above with respect to claim 16, the rejections of claims 27, 29, 32 and 34, as allegedly unpatentable over the Pearce patent in view of the Ta patent, should be withdrawn.

It is respectfully submitted that dependent claims 28 and 31 are at least allowable for the reasons given above in relation to independent claims 16, 27 and 29.

The rejection of claim 23 as allegedly unpatentable over the Pearce patent in view of the Ta patent, and further in view of the Gralla publication, is respectfully traversed. Claim 23 recites “an apparatus operable to associate software with hardware, comprising: a communication unit operative to obtain, from a code generator entity, information for a software code, a first identifier for the software, and a second identifier for the hardware; and a controller operative to generate a signature for the software, the first identifier, and the second identifier using cryptography and a first secure cryptographic key, wherein the signature is used to validate an association of the software with the hardware, the controller further configured to generate a certificate using a second secure cryptographic key, the certificate used to authenticate a certificate authority.” (Emphasis added). In the Office Action, “the examiner points out that he outlines a . . . software (controller).” See, page 5. Applicants assert that the software mentioned

in the Office Action is the software to be validated. Applicants continue to assert that the Examiner has yet to provide a concise explanation of how the cited references apply to claim 23, particularly with respect to the “controller operative to generate a signature for the software, the first identifier, and the second identifier using cryptography and a first secure cryptographic key, [and] further configured to generate a certificate using a second secure cryptographic key, the certificate used to authenticate a certificate authority,” as recited in claim 23. Therefore, applicants assert that claim 23 defines a patent advance over the Pearce patent in view of the Ta patent, and further in view of the Gralla publication, and that the rejection of claim 23 should be withdrawn.

It is respectfully submitted that dependent claims 24-26 are at least allowable for the reasons given above in relation to independent claim 23.

The rejection of claim 36 as allegedly unpatentable over the Pearce patent in view of the Ta patent, and further in view of the Gralla publication, is respectfully traversed. Claim 36 recites “an apparatus operable to validate software for hardware, comprising: a storage device configured to store a code image including the software, a code signature, and a certificate; [and] a secure storage device configured to store a hardware identifier and a certificate authority public key.” (Emphasis added). In the Office Action, the Examiner merely asserts that “any computer enforcing security would obviously have secure parts of storage.” See, page 5. However, the Examiner fails to explain why a hardware identifier and a certificate authority public key would be stored in the secure storage device rather than in the storage device. Accordingly, Applicants continue to assert that claim 36 defines a patent advance over the Pearce patent in view of the Ta patent, and further in view of the Gralla publication, and that the rejection of claim 36 should be withdrawn.

New Claims

Support for new claims 37-40 may be located in the specification at page 5, paragraph [1028], and page 11, paragraph [1054]. Applicants respectfully assert that new claims 37-40 recite patentable features over the cited prior art and should be allowed.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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